REMARKS

The Office Action mailed December 15, 2006 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claims 1, 13, and 23 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, ¶¶ 6-72, and FIGS. 1-6. The text of claims 2-12, 14-22, and 24-34 is unchanged, but their meaning is changed because they depend from amended claims.

New claims 35-43 also particularly point out and distinctly claim subject matter regarded as the invention. Support for these claims may be found in the specification, ¶¶ 6-72, and FIGS. 1-6, particularly FIG. 3 and the discussion thereof.

Judicially-created Double Patenting

Claims 1-34 stand rejected pursuant to the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-33 of co-pending prior United States Serial No. 10/458,628, in view of Forslow.[1] [2] Submitted herewith is a Terminal Disclaimer executed by attorney of record David B. Ritchie. Withdrawal of this rejection is respectfully requested.

The First 35 U.S.C. § 103 Rejection

Claims 1-11, 13-21, and 23-33 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Massarani[3] in view of Forslow,[4] among which claims 1, 13, and 23 are independent claims.[5] This rejection is respectfully traversed.

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[1] U.S. Patent Pub. No. 2002/0133534 to Forslow.
[2] Office Action mailed December 15, 2006, ¶ 5.
[3] U.S. Patent No. 6,393,484 to Massarani.
[4] U.S. Patent Publication No. 2002/0133534 to Forslow.
[5] Office Action at ¶ 6.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.[6]

Claim 1

Claim 1 as presently amended recites:

> A layer 2 network access device for providing network security, comprising:
> a plurality of input ports;
> a switching fabric in the layer 2 network access device for routing data received on said plurality of input ports to at least one output port; and
> control logic in the layer 2 network access device adapted to authenticate a physical address of a user device coupled to one of said plurality of input ports, to authenticate user information provided by a user of said user device only if said physical address is valid, and to restrict access to said one of said plurality of input ports in accordance with a user policy associated with said user information only if said user information is valid.

The Examiner states:

> Massarani discloses a network access device for providing network security, comprising:
> a plurality of input ports (Fig 1; network access ports; Col 4, lines 30-50);
> a switching fabric for routing data received on said plurality of input ports to at least one output port (Fig 1; Col 4, line 30-50; Col 5, line 55-65; router/ switch; interfaces); and
> control logic adapted to authenticate a physical address of a user device coupled to one of said plurality of input ports (Col 4, line 30-50; Col 6, line 25-52), to authenticate user information provided by a user of said user device only if said physical address is valid (Col 4, line 30-50; Col 6, line 25-52; authenticating based on valid/ invalid MAC).
> Although Massarani further discloses a user authentication by setting route/switch filtering followed by a MAC authentication (Fig 4), Massarani fails to disclose expressly restricting access to said one of said plurality of input ports in

[6] M.P.E.P § 2143.

accordance with a user policy associated with said user information only if said user information is valid.
However, Forslow discloses restricting access to said one of said plurality of input ports in accordance with a user policy associated with said user information only if said user information is valid (Par [0031], [0035]; MAC address authentication; access control based on ACL).
Forslow and Massarani are analogous art because they are from the same field of endeavor of network user access control/ authentication. At the time of invention, it will be obvious to a person of ordinary skill in the art to combine the teaching of Forslow with Massarani to design a network access device further comprising of restricting users based upon user policies in the ACL list in order to provide a stronger each user specific control mechanism (Forslow, Par [0031]-[0035]).[7]

The Applicants respectfully disagree. Claim 1 recites three elements, all of which are comprised by a network access device: (1) ports, (2) switching fabric, and (3) control logic. By attributing the ports element and the switching element of Claim 1 to the edge routers of Massarani, and by attributing the control logic element to the DHCP server of Massarani, the Examiner is equating the combination of two network devices (edge router and DHCP server) with a device, which is improper. The network access device of Claim 1 requires the ports, switching fabric and control logic form part of the network access device. With this Amendment, independent claims 1, 13, and 23 have been amended to make this distinction more clear. Also with this Amendment, Claims 1, 13, and 23 have been amended to recite wherein the network access device is a layer 2 network access device. Support for this change is found in the Specification as filed, at ¶ 28.

Massarani is directed to *layer 3* edge routers which utilize separate DHCP servers to perform user authentication.[8] Therefore, the rejection of Claim 1 under 35 U.S.C. § 103(a) is unsupported by the cited art of record and must be withdrawn.

Claims 13 and 23

Claim 13 is a method claim corresponding to apparatus claim 1. Claim 23 is a system claim corresponding to apparatus claim 1. Claim 1 being allowable, Claims 13 and 23 must be allowable for at least the same reasons as Claim 1.

Dependent Claims 2-12, 14-22, and 24-34

Claims 2-12, 14-22, and 24-34 depend from Claims 1, 13, and 23, respectively. The base claims being allowable, the dependent claims must also be allowable for at least the same reasons.

Claims 4 and 5

Claim 4 recites:

> The network access device of claim 1, wherein said user policy identifies an access control list.

Claim 5 recites:

> The network access device of claim 1, wherein said user policy includes an access control list.

Regarding both Claim 4 and Claim 5, the Examiner states:

> ... Forslow discloses the network access device wherein said user policy identifies an access control list (Par [0031]-[0035]).[9]

The Examiner thus refers to the same five paragraphs in Forslow in support of the Examiner's contention that Forslow discloses both a user policy *identifies* an access control list (Claim 4), and a user policy *includes* an access control list (Claim 5). However, in the rejection of

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[7] Massarani at ¶ 6.
[8] *See* Massarani at col. 4 ll. 54-60.
[9] Office Action at p. 6.

independent claim 1, the Examiner equates "user policy" to "access control based on ACL."[10] If the user policy is the ACL, the Examiner apparently is contending that Forslow teaches an ACL includes an ACL. Clarification is respectfully requested.

The Second 35 U.S.C. § 103 Rejection

Claims 12, 22 and 34 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Massarani in view of Forslow, and further in view of McNeill et al.,[11] among which no claims are independent claims.[12] This rejection is respectfully traversed.

Claims 12, 22, and 34 depend from Claims 1, 13, and 23, respectively. The arguments made above with respect to the 35 U.S.C. § 103(a) rejection of Claims 1, 12, and 23 apply here as well. The 35 U.S.C. § 103(a) rejection of Claims 1, 13, and 23 based on Massarani in view of Forslow is unsupported by the art, as each and every element as set forth in Claims 1, 13, and 23 as presently amended is not found in Massarani in view of Forslow. Therefore, the 35 U.S.C. § 103 rejection of dependent claims 12, 22, and 34 based on Massarani in view of Forslow is also unsupported by the art.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

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[10] Office Action at p. 4.
[11] U.S. Patent No. 6,167,052 to McNeill et al.
[12] Office Action at ¶ 7.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID BROWN
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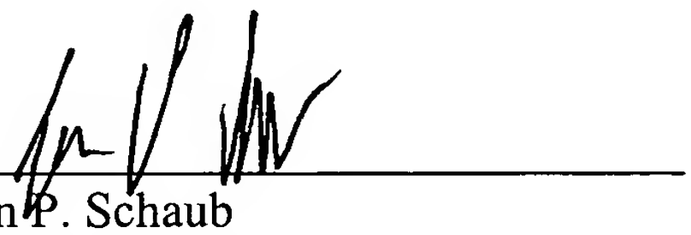

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